

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOHN PARROTT AND LAURIE PARROTT,  
Derivatively on Behalf of BIOPURE CORPORATION,

Plaintiffs,

v.

CASE NO. 04-10177-NG

THOMAS A. MOORE, CARL W. RAUSCH,  
DAVID N. JUDELSON, CHARLES A. SANDERS,  
M.D., C. EVERETT KOOP, M.D.  
DANIEL P. HARRINGTON, J. RICHARD  
CROUT, M.D., and BIOPURE CORPORATION,

Defendants.

-and-

BIOPURE CORPORATION, a Delaware  
Corporation,

Nominal Defendant.

(Additional caption continued on next page)

**DEFENDANTS' RESPONSE TO PLAINTIFFS' JOINT MOTION  
TO CONSOLIDATE RELATED ACTIONS, TO APPOINT LEAD COUNSEL  
AND TO ENTER PRETRIAL ORDER NO. 1**

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**RICH REINISCH, Derivatively on Behalf of  
BIOPURE CORPORATION,**  
**Plaintiff,**

**v.**

**CASE NO. 04-10215-NG**

**THOMAS A. MOORE, CARL W. RAUSCH,  
DAVID N. JUDELSON, CHARLES A.  
SANDERS, M.D., C. EVERETT KOOP, M.D.,  
DANIEL P. HARRINGTON and J. RICHARD  
CROUT, M.D.,**  
**Defendants,**

**-and-**

**BIOPURE CORPORATION, a Delaware  
Corporation,**  
**Nominal Defendant.**

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Plaintiffs in the above two actions have filed a Joint Motion for (i) consolidation, (ii) approval of lead plaintiffs' selection of lead counsel, and (iii) entry of a proposed pretrial order. By way of information, Defendants, Thomas A. Moore, Carl W. Rausch, David N. Judelson, Charles A. Sanders, M.D., C. Everett Koop, M.D., Daniel P. Harrington, J. Richard Crout M.D. and Nominal Defendant Biopure Corporation, respond to Plaintiffs' Joint Motion as follows:

1. Defendants do not oppose the consolidation of the above-captioned two derivative actions.
2. Defendants take no position on the issue of the appropriate lead counsel.
3. Defendants agree to the schedule proposed by Plaintiffs in the submitted proposed Pretrial Order No. 1 of sixty (60) days from the entry of the Order for Plaintiffs to file an Amended Consolidated Derivative Complaint and sixty (60) days from the filing of the Amended Consolidated Derivative Complaint for Defendants to answer or otherwise respond to

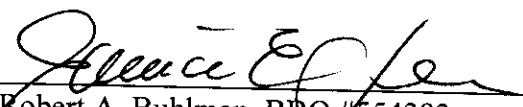
the Amended Consolidated Derivative Complaint. Defendants reserve all legal defenses, including jurisdictional defenses.

4. In light of the fact that Defendants agree with the filing schedule proposed by Plaintiffs, Defendants respectfully submit that the suggested schedule should be entered and Plaintiffs should be directed to file an Amended Consolidated Derivative Complaint by May 21, 2004.

5. Defendants disagree, however, that any of the plaintiffs have met the requirements of Fed. R. Civ. P. 23.1. Defendants reserve the right to address that issue at the appropriate procedural juncture.

**THOMAS A. MOORE, CARL W. RAUSCH,  
DAVID N. JUDELSON, CHARLES A.  
SANDERS, M.D., C. EVERETT KOOP, M.D.,  
DANIEL P. HARRINGTON, J. RICHARD  
CROUT, M.D. AND BIOPURE  
CORPORATION**

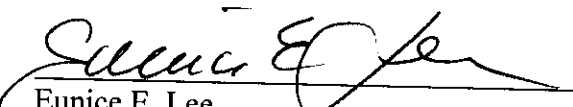
By their attorneys,

  
Robert A. Buhlman, BBO #554393  
Eunice E. Lee, BBO #639856  
BINGHAM McCUTCHEN LLP  
150 Federal Street  
Boston, MA 02110  
(617) 951-8000

Dated: March 19, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by regular mail, on March 19, 2004.

  
Eunice E. Lee